

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5019 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISHCHANDRA HARILAL JETHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5019 of 1991
MR PM THAKKAR for Petitioner No. 1
MR LR PUJARI AGP for Respondent No. 1
-

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 01/02/2002

ORAL JUDGEMENT

The petitioner-Dr.Jagdishchandra Harilal Jethi
has challenged in this petition the impugned order at
Annexure-F dated 21.3.1988 reverting him from the post of

Class-I to Class-II. He has challenged the impugned order by way of this writ petition only in June, 1991 i.e. after a period of more than three years of passing of the impugned order at Annexure-F. It is true that the matter was straightaway admitted on 31.7.1991 by the learned Single Judge of this Court and pending since last nearly 11 years. However, that would not be a ground to entertain it on merits because in my considered opinion gross delay of more than three years remained totally unexplained. If, before admitting this petition, notice was issued, to the respondents then they would have forthwith raised the objection of delay and on such objection being raised, matter would have been dismissed. Mere pendency of the petition for eleven years would not be a ground for this court to entertain it on merits when it is grossly delayed by more than three years. Hence, the preliminary objection raised by Mr.Pujari, learned AGP for the respondents has to be accepted.

However, it was tried to be vehemently submitted by Mrs.Sangita Pahwa that once this court admitted the petition this court should go into the merits and to decide it on merits. It depends on facts of each case. In the instant case, the petitioner has already retired from service way back in 1994. Though this petition was admitted on 31.7.1991 and ordered to be expedited by reserving liberty to the petitioner to apply for early hearing the petitioner had not moved for early hearing of the matter.

Under the circumstances, after lapse of more than eleven years, I am not inclined to go into the merits of the matter, as according to me such a petition filed at a belated stage after more than three years cannot be entertained by this court in its extraordinary jurisdiction under Article 226 of the Constitution of India.

In view of the above discussion, this petition fails and is dismissed with no order as to costs.

(B.J.Shethna, J.)

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